

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

JONATHAN SINGLETON, *et al.*,

Plaintiffs,

v.

HAL TAYLOR, in his official
capacity as Secretary of the Alabama
Law Enforcement Agency, and
DERRICK CUNNINGHAM, in his
official capacity as Sheriff for
Montgomery County, Alabama

Defendants.

CASE NO. 2:20-CV-99-WKW
[WO]

ORDER

Now before the court are Plaintiffs' Motion for Leave to File Sur-Reply in Opposition to Defendant Taylor's Motion to Dismiss (Doc. # 37) and Motion to File a Sur-Reply in Opposition to Defendant Cunningham's Motion to Dismiss (Doc. # 52). In their first motion (Doc. # 37), Plaintiffs seek to file a sur-reply to address arguments that they claim Defendant Taylor raised for the first time in his reply brief to his motion to dismiss. Defendant Taylor has not responded to Plaintiffs' motion to file a sur-reply. In their second motion (Doc. # 52), Plaintiffs seek to file a sur-reply to address various affidavits attached to Defendant Cunningham's reply brief in support of his motion to dismiss, which are related to arguments about standing and sovereign immunity. Defendant Cunningham responded to Plaintiffs' motion,

contending that “[u]nder these circumstances, a sur-reply is not warranted” because the affidavits he attached to his reply brief “were submitted in response to the extrinsic evidence filed by the Plaintiffs in their response” brief. (Doc. # 52, at 2.)

“A district court’s decision to permit the filing of a surreply is purely discretionary and should generally only be allowed when a valid reason for such additional briefing exists, such as where the movant raises new arguments in its reply brief.” *First Specialty Ins. Corp. v. 633 Partners, Ltd.*, 300 F. App’x 777, 788 (11th Cir. 2008) (citation and quotations omitted).

Having evaluated the motions in light of the parties’ arguments (or lack thereof) and the applicable law, the court concludes that Plaintiffs’ motions are due to be granted. Accordingly, it is ORDERED that Plaintiffs’ motions for leave to file sur-replies (Docs. # 37 and 52) are GRANTED to the extent that Plaintiffs seek to address new arguments raised by Defendants Taylor and Cunningham in their respective reply briefs. Plaintiffs shall electronically file their sur-replies **on or before April 1, 2021**.

DONE this 25th day of March, 2021.

/s/ W. Keith Watkins

UNITED STATES DISTRICT JUDGE